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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

B5

FILE: [REDACTED]
SRC 97 045 50187

Office: TEXAS SERVICE CENTER Date: **JAN 13 2010**

IN RE: Petitioner: [REDACTED]

PETITION: Immigrant Petition by Alien Entrepreneur Pursuant to Section 203(b)(5) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(5)


ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, initially approved the preference visa petition. Subsequently, the director issued a notice of intent to revoke the approval of the petition (NOIR). In a Notice of Revocation (NOR), the director ultimately revoked the approval of the petition (Form I-526). The director rejected the appeal as late. The petitioner then filed a Motion to Reopen that decision, asserting that the NOR was sent to the wrong address, precluding a timely appeal. In response, the director forwarded the matter to this office. The Administrative Appeals Office (AAO) summarily dismissed the appeal. The matter is now before the AAO on motion. The motion will be dismissed as moot.

The petitioner seeks classification as an alien entrepreneur pursuant to section 203(b)(5) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(5). The director approved the petition on December 18, 1996. On November 12, 1998, the director issued the NOIR. On February 16, 1999, the director issued the final NOR, acknowledging the submission of a response to the NOIR but concluding that it did not overcome the grounds stated in the NOIR. Specifically, the director concluded that the petitioner had not demonstrated a qualifying at-risk investment of lawfully obtained funds or that he would create the necessary 10 jobs.

On March 9, 1999, the petitioner appealed the director's decision asserting that a brief would be filed in 30 days. On May 26, 1999, the director rejected the appeal as late. On June 22, 1999, the petitioner filed an appeal. On June 7, 2001, the AAO summarily dismissed the appeal. The petitioner then filed the instant motion.

A review of U.S. Citizenship and Immigration Services (USCIS) electronic records reflects that the alien subsequently adjusted status to that of a lawful permanent resident on December 28, 2004. Because the alien has adjusted to lawful permanent resident status, further pursuit of the matter at hand is moot.

ORDER: The motion is dismissed, based on the alien's adjustment to lawful permanent resident status.